

### **Exclusive Rights of Burial**

When a grave is purchased, you are buying the Exclusive Rights of Burial for a specified period. You are not buying the freehold of the land; it is like buying a lease for that period.

Owning the Exclusive Rights gives the purchaser(s) the right to say who can be buried in the grave, to bury or scatter ashes in the grave, and give permission for a memorial to be erected or amended.

Most burial plots will accommodate two coffins and up to six ashes caskets, depending on the previous arrangement made by the funeral directors. Written permission from all of the grave owners is needed to open the grave and to erect or alter a memorial. There is usually one and no more than two owners.

Please note: An Exclusive Right of Burial cannot be purchased in advance of need, i.e. graves cannot be pre-purchased or reserved. (Reservations are no longer offered due to a shortage of vacant plots).

### **Deed of Grant**

Evidence of an Exclusive Right of Burial is contained within a Deed of Grant issued to the purchaser. This document should be kept in a safe place until it is needed. We do not issue copies.

The Town Council is aware that various legal burial rights were purchased in the past without issuing a Deed of Grant. Where no Deed can be produced but our records indicate who purchased the rights at the time, we will treat this as evidence of ownership. In these circumstances we may be prepared to issue a Deed of Grant to the next of kin for the remaining term of the original rights. Please read the following sections on transfer of grave ownership and contact us with any questions.

### **What Happens When the Owner Of These Rights Dies?**

If the owner of the Exclusive Rights dies, it is assumed that they gave permission to be interred into their own grave. After this time the Rights become part of their estate and may be left in a will to someone else. If the Rights are not specifically mentioned in the will, they will form part of the 'residue' of the will, usually willed as 'and all my other worldly goods' at the end of the will. Whoever inherits the Rights will need to contact our office and arrange a transfer of ownership before the grave can be opened again. As paperwork can go missing it is best to do this as soon as possible after inheriting the Rights.

### **Transferring Grave Ownership**

When the last owner of a grave dies the family may wish to transfer the grave to a new owner:

- to keep the grave in the family,
- to enable works to be made to the headstone/memorial, and
- to allow for the grave to be used for a further burial or burial of cremated remains.

The Exclusive Rights must be transferred before the grave can be re-opened or a memorial erected. Please read the sections overleaf for more information about this process. A fee applies for this service. All certificates supplied with transfer applications must be originals or certified copies.

For more information, contact the Cemetery Officer on 01451 861499 or [admin@northleach.gov.uk](mailto:admin@northleach.gov.uk).

Note: A living grave owner can transfer ownership at any time by completing an Assignment (Form A).

### **Transfer: Grave Owner Is Deceased** (Grant of Probate obtained)

If Grant of Probate was obtained, ownership of the grave can be transferred to the Executors. We will need to see and take a copy of the sealed Grant. The Executor is responsible for identifying the correct person to inherit the grave and gives assent to the transfer by completing a Transfer Assent (Form T).

### **Transfer: Grave Owner Is Deceased** (No Grant of Probate but leaves a valid Will)

If there is no Grant of Probate, grave ownership can be transferred to the Executors by way of a Statutory Declaration, which we will prepare. We will need to see and take a copy of the will and any codicils. We will only take a copy the relevant part of the will showing details of the Executor. The Executor must then sign the declaration in the presence of a Magistrate or Commissioner of Oaths.

### **Transfer: Grave Owner Is Deceased** (No Will but Grant of Letters of Administration obtained)

If there is no valid will and the estate is of sufficient value to require a Grant of Letters of Administration, ownership can be transferred to the personal representative of the deceased. We will need to see and take a copy of the sealed Grant. Application can then be made through the personal representative for grave ownership to be transferred by completing a Transfer Assent (Form T).

### **Transfer: Grave Owner Dies Intestate** (No Will or Letters of Administration)

Where the deceased owner died intestate (without a will) and there was insufficient estate to pass through the courts you will need to establish whom is entitled to take ownership of the grave. In this situation the lawful next of kin is determined by the rules of intestacy. First in the line of succession is the surviving husband, wife or civil partner of the deceased, second are children, third grandchildren. This can be complex and it may be necessary for the person applying for ownership of a grave to get in contact with many members of the family to gain their permission.

Once the lawful next of kin has been established, the applicant will need to supply information to enable a Statutory Declaration to be prepared. This is a legal document that sets out the facts regarding:

- the original purchase of the Exclusive Rights of Burial
- the death of the registered owner (intestate or otherwise)
- relationship of the applicant to the registered owner

We will need to see the Deed of Grant and a certified copy of the owner's death certificate. If the Deed of Grant has been lost, suitable wording to that effect will be included within the Statutory Declaration. The Statutory Declaration must be signed in the presence of a Magistrate or Commissioner of Oaths.

### **Renunciation**

When more than one person is entitled to claim ownership e.g. the deceased has three children entitled to inherit their estate, and one or more entitled persons wishes to give up their Rights, then they MUST complete a Form of Renunciation (Form X). This confirms they do not wish to retain their rights to the grave ownership. Please be aware that owing to the maximum capacity of the grave being two burials and administration constraints we will only accept a maximum of TWO owners.

### **Family Disputes**

We will try our best to find a way to transfer the ownership of a grave but there may be circumstances where it is not possible. Where there is a family dispute and consents are withheld or family members are unwilling to get involved, the ownership cannot be transferred and no further burials will be allowed. It is the responsibility of the next of kin concerned to reach an agreement and resolve the issue.